



City of Seattle

Department of Planning and Development

Diane M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3011790

**Applicant Name:** Barbara Yarrington for Clearwire

**Address of Proposal:** 4435 Francis Ave N

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a minor communication utility (Clearwire) consisting of three panel antennas, three microwave dishes and one equipment cabinet all to be located on the rooftop of an existing residential building.

The following reviews and approvals are required:

**Administrative Conditional Use** – to allow a minor communication utility to expand the height limit in an L1 zone. – pursuant to Seattle Municipal Code (SMC) 23.57

**SEPA - Environmental Determination** – pursuant to SMC 25.05

**SEPA DETERMINATION:** ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

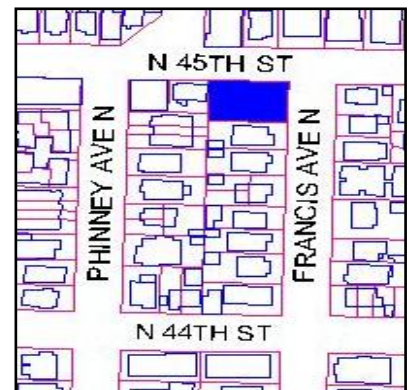
☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**BACKGROUND INFORMATION**

The subject site is located at the southwest corner of the intersection of Francis Avenue North and North 45<sup>th</sup> Street. The site is zoned L1 and is developed with a 3-story multifamily residential development that, according to the King County Assessor, was built in 1976.

**Notice and Comment Period**

Notice of the application was published on December 9, 2010. The required public comment period ended on December 22, 2010. One comment was received and asked that no 'microwave dishes are faced west or south' and that the 'design ... not be visible from [their] property.'



The Land Use Application file is available at the Public Resource Center located at 700 Fifth Ave, Suite 2000<sup>1</sup>.

### **ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE**

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Lowrise zone as an administrative conditional use when it meets the development standards of SMC 23.57.011C and the following criteria, as applicable.

1. *The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

There would be a minor visible change in the existing rooftop condition;

- one four (4) foot wide by four (4) foot deep by ten (10) foot high faux chimney would be located nine (9) feet south of the north façade and nine (9) feet east of the west façade of the structure,
- one two (2) foot wide by two (2) foot deep by ten (10) foot high faux chimney would be located more than nine (9) feet north of the south façade and more than eighteen (18) feet west of the east façade of the structure, and
- one seven (7) foot wide by seven (7) foot deep area of the rooftop would be used for an equipment cabinet.

The faux chimneys are to be painted the same color as the structure and will utilize the same architectural style. Hence, there will be no detrimental impacts to residential character. Certainly almost nothing could be less intrusive.

2. *The visual impacts that are addressed in Section 23.57.016 shall be mitigated to the greatest extent practicable.*

For reasons set forth above, the proposal complies with this criterion.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a. *The antenna is at least one hundred feet (100') from a MIO boundary, and*
- b. *The antenna is substantially screened from the surrounding neighborhood's view.*

Not applicable.

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<sup>1</sup> <http://www.seattle.gov/dpd/PRC/LocationHours/default.asp>

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The proposed height of the minor communication utility is ten feet above the rooftop, with a total height for the installation of just over forty-five (45) feet above the ground level. Documentation within the MUP file, provided by the applicant, demonstrates the need for the requested height as the minimum necessary for the effective functioning of the minor communication utility; the proposal complies with this criterion.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

Not applicable.

#### Summary

The proposed project is consistent with the administrative conditional use criteria of the Seattle Municipal code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

#### **DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT**

The application for an administrative conditional use is **GRANTED.**

#### **CONDITIONS - ADMINISTRATIVE CONDITIONAL USE PERMIT**

None.

#### **ANALYSIS – SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: “Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,” subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

#### Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

#### Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

#### Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a “Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility” and an accompanying “Affidavit of Qualification and Certification” for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, does not warrant any conditioning to mitigate for adverse impacts.

Greenhouse Gas

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery — resulting in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the increased contribution of greenhouse gas emissions from this project.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

**DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

**ADMINISTRATIVE CONDITIONAL USE AND SEPA CONDITIONS**

None.

Signature: (signature on file) Date: January 20, 2011  
Colin R. Vasquez, Senior Land Use Planner  
Department of Planning and Development

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